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THE CASE OF

THE CHIGNECTO RAILWAY

PRESS OPINIONS

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OTTAWA, MARCH 1912

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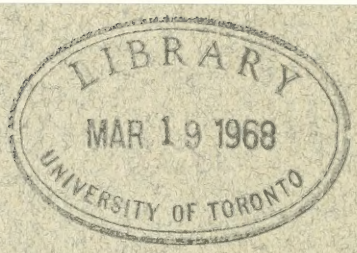

From "The Toronto Globe," 7th Sept., 1891.

The question more immediately concerning the Canadian people is to what extent the Dominion Government is liable. It is true that the promise of twenty years' subsidy was conditional on the completion of the work, but it is equally obivous that the action of Parliament was the bait which caught the British investor, who would not have bitten at a naked hook. The original subsidy promised in 1882 was for $150,000 a year for twenty-five years, but in 1886 this was changed to a subsidy of $170,000 a year for twenty years. **If we repudiate all responsibility, as technically we should be warranted in doing, the credit of the Dominion would suffer, for there can be no doubt that we have incurred a considerable degree of moral responsibility in connection with the undertaking.**

From "The Ottawa Free Press, 1898.

But there is an aspect of the case which is almost painful, **as it practically amounts to a national disgrace.** On the strength of the endorsation given it by Government and Parliamentary procedure, many people in Britain have been induced to sink money in the project which must now be regarded as lost.

From "The Ottawa Evening Journal," 20th April, 1903.

The Journal has many times expressed the opinion that the unfortunate investors in that Company have not been justly treated by Canada. In April last, we drew attention to the facts at some length, and said that the honor of the Dominion seemed to call for a final decision about the Company's claim.

While every railway scheme, good and bad—indeed, some almost fraudulent—have had extensions of time and revotes of subsidies granted them again and again as a matter of course, similar privileges were and are refused to this Company of English investors who expended their money in our country on the Ship Railway, **promoted solely by Canadians and our own Government.**

No reason of any kind has been given by the Dominion Government for its treatment of the Company, except that the Railway might not have been a commercial success. Whether correct or not, this has no bearing on the question now. The worst which may be said regarding the scheme—even if it could be proved to be a mere wild-cat venture—the stronger becomes the Company's case for compensation. **The scheme was entirely Canadian in inception and promotion, and to condemn it is in effect to say that our Parliament held out the inducements in the Acts they passed in order to entrap the English investors into spending their money on a project which they knew had no merit, and in which they had no belief.**

It was in effect a partnership between the Government and the Company. The former promised the latter, in the Subsidy

Act, that if the Company would build the Railway the Government would pay them the subsidy; **but the Government took advantage of a default on the part of the Company—caused by the Government's own mistaken legislation—and refused to allow it to complete the Railway, by which they deprived the Company of its subsidy. It is impossible for any man to say such treatment is just or honorable.** The loss should be shared between the Government and the Company, and when this is being done the fact should not be overlooked that the Government received about a half-million dollars* of the Company's money in duties and railway charges; **therefore, while the Company is ruined the Government which created it has profited by its misfortune. It is humiliating to us as Canadians to feel compelled to point out such a transparent breach of good faith.**

Now, we have here shown that the origin of a Chignecto Highway of Commerce was even anterior to the Royal Commission of 1870, which strongly recommended a Ship Canal. Out of this came the Ship Railway, **for which both political parties were responsible, and both should now join in closing this unfortunate chapter of Canadian promotions by uniting to settle the amount of compensation which is to be paid to the Company. And the amount of this should be fair—even generous. Do not let us add meanness to injustice. But if a sum cannot be agreed upon, then let it be referred to some impartial referee.**

From "The Ottawa Evening Journal," 21st April, 1903.

The importance of this question is our reason for returning to it again; want of space prevented our dealing as fully with it yesterday as we desired.

This unfortunate Company is a victim of our political system, which creates in some minds the opinion that one administration may repudiate any acts of its predecessors so far as it may suit. **But those who think so must submit to be told that such views cannot be acted upon honorably.**

The principle we contend for has undoubtedly been disregarded in this case. The Company has asked to be treated in the same way as all our administrations have treated Canadian investors. This is the very least these English investors are entitled to, and it has been steadily denied to them. Time to complete the Railway was refused, and their offers to refer the claim to arbitration or to a Judge or to a committee of the House, or indeed to any tribunal, were also rejected, **while similarly means of settling claims have been invariably provided for Canadian contractors.** We might go back for years and recite case after case when the appeal came from Canadians for redress, and show that it was always given in one form or

* $600,000.

another. We shall, however, refer only to the way in which the Government dealt with the Mackenzie-Mann claim last session, which was settled by a reference to the Hon. Mr. Justice Burbidge, sitting as a Commissioner.

The vote came before the House on 12th May last year (1902). The Minister of the Interior said neither the Government nor any member of it had instructed the contractors to proceed with the contract until ratified by Parliament. The contractors, however, did so at their own risk on a mere understanding with the Government, and the claim was allowed by the House, both sides agreeing that it should be paid. The Prime Minister took part in the debate, and said:—

> **"Of course I am bound to say at once that there is no legal recourse against the Canadian Government which can be enforced in a Court of Law, but we admit that Mackenzie and Mann have a moral claim against the honor of the Canadian people, against the honor of the Canadian Government, and against the honor of the Canadian Parliament for the money which then they expended," etc.**

Now, the equities are far stronger in the case of the Chignecto claim than they were in the one referred to, and all the Prime Minister said regarding the Mackenzie-Mann claim applies to it with greater force. The Chignecto Company had a contract settled after its terms had been discussed in Parliament for five* sessions, and the question at once arises why was everything granted by the Government in the case of the Canadian firm and denied to the English Company? **How are we to satisfy these English investors, who came here with their cash and spent it on our scheme by our invitation, that there is not one law for Canadians and another for them? Now, however, when the Government has concluded to pay compensation, some method of fixing the amount should be agreed upon. While this remains unsettled, the Company is being treated with injustice.**

From "The Ottawa Citizen," 23rd April, 1903.

A DEBT OF HONOR.

It has been pointed out that the principle in the case is parallel with that of the Mackenzie and Mann claim in connection with the Teslin Road, settled in 1901 by the present administration, **but the moral obligation is very much stronger.** The real obstacle is that the obligation was created by a former political administration, and settlement is now sought with its successors, who are perhaps naturally loath to meet the expense. At the same time the obligation is admitted, the

* seven sessions.

Dominion's credit is involved in its ultimate discharge, and the sooner it is discharged the sooner the credit of the country will be placed on a proper footing in London.

If Canadian interests were involved under similar circumstances there is no doubt that there would be a great deal heard of the matter, and pressure would be brought to induce action being taken by the Government, but the claimants, having no political influence, they are being stood off. That is the actual situation.

From "The Evening Journal," 22nd May, 1908.

It will be a surprise to many readers of The Journal to learn that the Chignecto Marine Transport Company's claim against the Government has not yet been settled. Mr. A. D. Provand, representing the Company, has written a letter to Sir Wilfrid Laurier asking for a settlement. Mr. Provand reminds the Prime Minister that on several of the former's recent visits to Ottawa he was referred by Sir Wilfrid Laurier to Mr. Fielding, Finance Minister, with assurances of his willingness to adopt and act upon any arrangement for a settlement Mr. Fielding might agree to. Mr. Provand says he has accordingly seen Mr. Fielding several times on the subject, but without being able to arrive at even a basis of settlement. Mr. Provand dclares there is no difference of opinion as to the facts or dispute as to the Company having an equitable claim on the Government. These, he says, have been repeatedly admitted. The only question to dispose of, he says, is the amount the Company is fairly entitled to receive, and on behalf of those interested, Mr. Provand states that he would concur in almost any form of reference or arbitration to determine the sum. Nor is there any question, Mr. Provand contends, of the Railway being a government enterprise. Official documents are cited in support of this.

The money to carry out the scheme was to be obtained from British investors.

> **"The promotion," Mr. Provand maintains, "was done by the Government. No one in England took any part whatever in originating the enterprise. We did not seek the business; it was pressed on us by the Government until we were unfortunately induced to supply the money."**

The Company expended and lost about four million dollars on the Railway, while the Government, Mr. Provand asserts, is in pocket, with interest, more than a million dollars collected on Duties and Railway rates from the Company.

It was the intention of the Tupper administration to compensate the Company. Hon. John Haggart, speaking in the House on the 10th of June, 1903, said:

"Sir Charles Tupper, if he had continued in the Government of this country, would have brought down a measure for the purpose to a certain extent of indemnifying these people for the money they had put into the undertaking."

In concluding the statement of his case, Mr. Provand says the Company rightfully looked on the acts and the statements of the Government as all-sufficient, and

"Trusted to them as implicitly as our investors are now trusting to Acts passed for the Grand Pacific Railway, in reliance on which they have recently supplied more than $40,000,000 to build the line."

And further:

"The bonds and shares of the Chignecto Company were largely taken by financing houses, bankers, trust companies, and other investing firms. And, except in cases of death or settlement, they still hold them for the most part. The trust companies have many thousands of shareholders, and there is no doubt whatever (evidence of which came before me just previous to leaving London on the 21st of March) that many of these avoid Canadian securities, and will continue to do so as long as the Chignecto claim is unsettled. To what extent this abstention exists, it is impossible to estimate, but I am sure it is considerable. A fair settlement of the Company's claim would remove these objections to Canadian securities in their minds, and give a result of many time more value to the Government and to Canada than all the money that may be awarded us."

If there is no just cause why a fair and equitable settlement should not be made, The Journal suggests that the matter be closed without further delay. If there are reasons why this claim should be allowed to remain outstanding against the credit of the country, they ought to be made known.

From "The Evening Journal," 5th June, 1908.

A WRONG WHICH CONTINUES.

Years ago The Journal first commented and has since from time to time been commenting upon the claim to justice of the Chignecto Ship Railway Company. We have many times expressed the opinion that the shareholders had not been treated justly by Canada. Again, the representative of the Company is in Ottawa, urging the Government to come to some arrangement.

We have no doubt the claim would have been settled long ago but for the way our politics are arranged. In the beginning it was not a party question, but was made one for political purposes. Both parties were responsible for the scheme, and should now join in closing the unfortunate business so as to leave no stigma on Canada. It is a claim that will not down, it must be settled by payment.

We have recently received three pamphlets dealing with this question. The first was a general statement of the Company's case, the second one a letter to the Prime Minister, and the third—just received—is a letter to the members and senators. In the Journal of the 22nd ult., we commented on the letter to the Prime Minister, which disclosed the fact that five years ago **the Finance Minister stated in the House that nothing remained for settlement except the compensation—the amount to be paid. How, then, is it that still the amount is not so much as considered?** But waiving for the moment the question of compensation, our attention is drawn by the letter just received to other statements made in the House, by both ministers and members, that the charter of the Company was not revived in order to save the shareholders from further loss. **Now we find, from official documents quoted in the letter, that it was not to save the shareholders from loss that the charter was not revived, but that it was to save the Government from the responsibility of having to pay the subsidy—a very different story.** We quote what we said on this point in a former article, showing that the Company, according to all our parliamentary practice, was clearly entitled to a revival of its charter and subsidy. These were the words:—

> **"While every railway scheme, good and bad—indeed, some almost fraudulent—have had extensions of time and revotes of subsidies granted them again and again, similar privileges were refused to this Company of English investors who expended their money in our country on the Ship Railway promoted solely by Canadians and our own Government."**

We wish now to emphasize every syllable of the above. Another point touched upon in this statement of the Company's case, and also in the letters to the Prime Minister and to the members, is the fact that **while building the Ship Railway the Company paid $300,000 to the Government in customs duties, and about $300,000 in railway rates to the I.C.R. In common fairness the Government cannot have any claim to this money. It prevented the Company completing the Railway and earning**

the Government subsidy—the inducement held out to it to undertake the work—and these sums should therefore have been returned to the shareholders immediately on the Government's decision not to revive the charter, and that money ought now—in common with other claims as usually paid to Canadian contractors—to be returned with interest. To keep this money is to enrich ourselves by taking advantage of the misfortunes which we ourselves brought upon the Company. Both political parties should at once join in closing this unfortunate chapter of Canadian promotion, and agree upon the sum of compensation to be paid to the Company. **And the amount should be fair, even generous. Canada out of her abundance can well afford to be so. Do not let us add meanness to injustice.** But if the sum cannot be mutually agreed upon, then let the amount be settled by an impartial referee. The Company's representative has suggested various methods of arbitration by any one of which he is willing to abide, and one of them should be adopted, and this unfortunate business drawn to a close.

Volumes might be filled with press opinions advocating the Ship Railway. Two examples are given below.

From "The Montreal Herald," 10th September, 1885.

This railway will be of great use to those trading between the north shore of New Brunswick and the United States. It gives them a short cut to the seaports of the Republic. Prince Edward Island will be benefitted in a similar manner but in a less degree. Advantages from this connection by railway of the waters separated by the Isthmus of Chignecto will no doubt arise which have not been foreseen. This is always the result of increased facilities of communication. They create a trade for themselves.

From "The St. John Daily Telegraph," 21st July, 1887.

Some time since in speaking of the Chignecto Marine Railway we mentioned the fact that Sir Leonard Tilley, speaking in the House of Assembly in 1866, stated the construction of the Bay Verte Canal would at an early date be undertaken by the Government. We further observe that the canal having been abandoned and the ship railway started in its stead it is surely not too much to ask after waiting twenty years that the general government should assist the enterprising projector of the present scheme in such a manner as may secure its completion.

We have had a marvellous patience in this matter and have waited too long. When the Pacific Railway was completed we were told that now something would be done in the Eastern Provinces. * * * Meanwhile New Brunswick and Prince Edward Island, the two worst used provinces in the Dominion (because the N.P. injures both without compensating advantages) **are waiting for the Ship Railway.**

The following resolution was passed by the Board of Trade of St. John, N.B., 20th October, 1883, in favour of the Ship Railway, and is an example of the expressions of approval and support made by public bodies:

"*Whereas*, means of communication between the waters of the Bay of Fundy and the Gulf of St. Lawrence, whereby products of the several Provinces bordering thereon may be interchanged without encountering the dangerous navigation of the Atlantic coast of Nova Scotia, whereby steamers and sailing vessels, adapted as well for inland as for ocean navigation, may be safely conveyed across the Isthmus of Chignecto, without the cost and delay of transhipment or breaking bulk, and whereby the sailing distance between this port and all ports north and west of said Isthmus may be reduced about 600 miles—would materially increase the volume of trade and benefit the shipping interests of this and other ports in the Bay of Fundy and Gulf of St. Lawrence; and

"*Whereas*, by means of a Ship Railway across the Isthmus the objects aforesaid may be accomplished, and thus stimulate the development of the agricultural, mining, lumbering, and fishing resources of the districts contiguous to the aforesaid parts; and

"*Whereas*, a company has been formed for the construction and operation of a Ship Railway, with commodious docks and hydraulic lifts, for raising and transporting over its line laden vessels of 1,000 tons register; therefore

"*Resolved*, That this Board is of opinion that the undertaking of said Company would greatly facilitate trade and commerce between the eastern and western provinces; and further

"*Resolved*, That this Board cordially approves the project for building the said Ship Railway, believing that this is a movement which will commend itself to all classes, and prove to be of great convenience and benefit to our trade and commerce generally."

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